CHAPTER XVI

JUDICIAL PROCEDURE

SETTLEMENT OF MINOR DISPUTES; JUDGES

627 Slight disputes and quarrels between members of the same tribe are settled by friendly intercession. A respected Bedouin comes with one or two companions to the tent of the more powerful opponent and says to him:

"O So-and-So, stay! Thou knowest well that we all honor thee, and we also know that So-and-So has, in fact, harmed thee and that therefore thou hast every reason to be angry with him; but if thou lovest me, if thou lovest us, do not persecute him any more! *lâ teğîh.*" The man thus addressed, recognizing that he will gain more in public esteem if he abandons his claims, answers:

"For the love I bear thee and all of you, but for this reason only, I give up all my claims."

"We know that thou speakest the truth, but still we beg of thee to swear by Allâh."

"I call Allâh to witness that I will persecute him no more."

"May thy love for us increase and give us power to appoint a guardian who is to see that thou persecutest thy opponent no more!"

"I give you full power, *ana mheddikom*, to appoint any guardians you desire."

"We shall go to So-and-So."

"Go at once! *kowṭerû.*" Then they go to a powerful Bedouin and say: "Behold, X has promised that he will not quarrel with Y any more. Behold, we place the latter before thy countenance. Have a care that X actually ceases to persecute him."

Answering "I guarantee that," he sends word to the stronger opponent: "Beware of persecuting Y any longer. For, beware, he has put himself under my protection, *ṭarâh daḫal 'alejje.*"

692 627 More serious differences are settled among the Rwala by the hereditary native judge, *'ârefa* (pl., *'awâref*). Judicial

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dignity is hereditary in certain kins and passes as a rule from father to son. If the latter lacks the necessary intelligence, *boṣr*, the litigants turn to his uncle, *jinḥarûn 'ammeh*, or to some other member of his kin. Furthermore, every chief may pass sentence but may not interfere in any way with the jurisdiction of the hereditary judges; he must submit when the contending parties appeal from his verdict to the hereditary judge. When acting as a judge, a chief is never called *'âṛefa*, not being recognized as such. When a chief adjudicates disputes he does so because he wields power which it is not always possible to resist and because he can support his judgment or his will by force.

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Eben Ğandal is the greatest judge of the Âl Ğlâs group; Âl Ṭajjâr holds the same position with the Beni Wahab.

In all matters pertaining to blood vengeance the decision lies with the *'awâref ad-damm*, namely: Âl Kwêčeb in the Âl Ğlâs group and Eben Smejr, otherwise known as Eben Baṭṭâḥ, in the Beni Wahab group.

Other disputes are decided by Eben Ğandal, al-Ḳa'âḳa', and Eben Durmi of the Âl Ğlâs group.

On questions of war and peace Eben Ša'lân is called upon to decide.

Special rights are to be considered when either the plaintiff or the defendant happens to be a neighbor, *al-ḳaṣîr*; a guest, *az-zejf*; or a traveling companion, *al-ḫawi*.

In the Ḳmuṣa division of the as-Sba'a tribe the recognized judges are the chiefs of the ar-Rḥama clan (Barṛaš, Mḥammad, Meṭḳâl, and 'Awejnân of the Sa'îd kin) as well as the chiefs of the Bṭejnât clan ('Azîz and Fallâğ of the Štêwi kin). Among the 'Ebede division it is the al-Mwâjğe clan from which the judges are selected from the kins: Eben 'Allûš, Eben Ğazzâ', Eben Rabîṭ, Âl Ağda', and Âl Rğêl.

LAWSUITS

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A lawsuit is called *sâlfa* or *ṭlâba* and may be decided either by witnesses or by black oaths, *us-sâlfa 'alejha umma šhûd walla' dijânen sûd*. An oath is black because it disgraces a man, blackens his countenance or his honor, implying that his mere word is not believed. Besides, the swearer is always in danger of God's anger, as he can never explain things as they really happened.